

PHILLIPS NIZER

MEMO ENDORSED

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USDC SDNY
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The Court has reviewed the parties' letter. The request for an extension of the discovery cut-off is

January 7, 2008

Via Hand Delivery

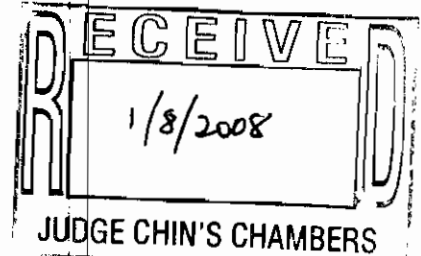
Hon. Denny Chin
United States District Court
500 Pearl St., Room 1020
New York, New York 10007

DENIED. At this point, with five weeks to go, I do not see the need for an

Re: Russell Newman, Inc. adv. CJ Apparel, Inc.
SDNY Case No. 07 CV 6413 (DC) extension.

Dear Judge Chin:

SO ORDERED.



We represent the defendant/counterclaimant Russell Newman, Inc. (Russell Newman), in the above matter. We write this letter regarding a discovery dispute which, although minor in nature and notwithstanding Russell Newman's good faith attempt, is not resolved, and to request an appropriate extension of the Court ordered discovery cut-off. USDJ 1/9/08

This matter is in the very early discovery phase. The initial pretrial conference was held before Your Honor on November 30, 2007, at which time Your Honor directed that all discovery be completed by June 20, 2008.

Prior to the pretrial conference, counsel for the parties held a F.R.C.P. 26(f) conference at which it was agreed that the mandatory F.R.C.P. 26 disclosures would be made by December 14, 2007 (fourteen days following the pretrial conference). This was confirmed by both counsel in their respective proposed discovery schedules and was again confirmed by CJ Apparel's counsel in a December 18, 2007, e-mail from Melanie Sacks (attached hereto as Exhibit A).

In her e-mail Ms. Sacks acknowledges the timely receipt of Russell Newman's initial Rule 26 disclosures, advises that CJ Apparel was in the process of assembling its Rule 26 disclosures, and states that it "should be able to serve them upon you by the end of the week [December 21]." With respect to the Rule 26 disclosures Ms. Sacks' states:

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Plaintiff's Position
December 14, 2007

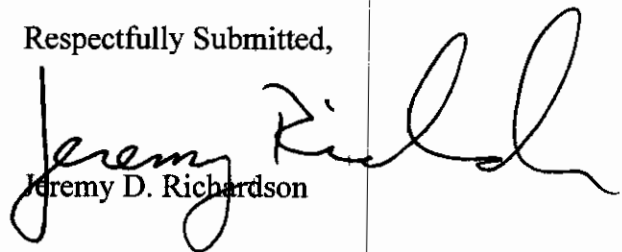
Defendant's Position
agreed

Accordingly, Russell Newman made its F.R.C.P. disclosures on December 14. CJ Apparel has yet to make its disclosures which are now 24 days past due.¹

On January 4, 2008, I wrote to Ira Sacks, lead counsel for CJ Apparel asking that he consent to an extension of the discovery cut-off equivalent to the number of days that CJ Apparel's Rule 26 disclosures were past due. A copy of my January 4 letter is attached as Exhibit B. Rather than consent to this simple request, which was necessitated by his client's delay, Mr. Sacks takes the unsupportable position that there was never any agreement by counsel to make the Rule 26 disclosures on any particular date. A copy of Mr. Sacks' January 4 letter is attached as Exhibit C.

As the Court will recall, at the pretrial conference Russell Newman had asked for a longer discovery period due to the complexity of this case. The June 20 discovery end date is a tight schedule, but CJ Apparel's nearly four-week delay makes that unworkable. Accordingly, we ask that the Court extend the June 20 discovery cut-off by one day for every day that CJ Apparel's Rule 26 disclosures are past due.

Respectfully Submitted,



Jeremy D. Richardson

JDR:wp

cc: Ira S. Sacks, Esq. (by E-mail)
Melanie Sacks, Esq. (by E-mail)
Donald L. Kreindler, Esq.

¹ On January 4 we were advised by e-mail that CJ Apparel intends to produce its Rule 26 disclosures today.